



Strengthening our Food and Agricultural Economy

Economic Affairs Interim Committee
May 12, 2014
EXHIBIT 18

12 May 2014

Comments on behalf of the Grow Montana Coalition

To the Montana House Interim Economic Affairs Committee
Regarding HB 630, the Montana Food Policy Modernization Project

Good afternoon Mr. Chairman and members of the committee,

My name is Stephanie Laporte Potts. I am an agriculture specialist at the National Center for Appropriate Technology, and coordinator of the Grow Montana coalition. Grow Montana is a broad-based, non-partisan coalition whose common purpose is to build a healthy and robust Montana-based food system. We work help keep money in Montana's agricultural communities, reconnect our rural and urban economies, and improve all of our citizen's access to healthy, nutritious food. We do so by working to eliminate some of the barriers that keep Montana's food and farm entrepreneurs from thriving.

That's why I'm here today—and why we have been active participants in the process mandated under HB630.

Food safety regulations can be some of the most important laws we have to protect public health and safety, but they can also be some of the most confusing aspects of running a successful local food business. For a long time now, many of Montana's local food producers and consumers have been dealing with a frustrating regulatory patchwork. Our hope is that the result of the HB630 process, and any legislation that this committee or others may create as a response, will be to streamline regulations, reduce burdens on small businesses, increase communication and outreach, and in doing so help create opportunities, rather than barriers, for Montana food businesses. We believe that this can be done ~~in~~ while also protecting the public's health.

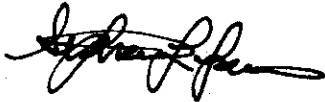
On behalf of Grow Montana, I participated on the stakeholder advisory committee of the HB 630 process, attended one of the public meetings, and read all the excellent notes from the other public meetings. We have submitted comments through this process, which are included in the final report; in the interest of the committee's time, I will not elaborate on them much here. We have some specific concerns and ideas about the proposed cottage food regulation, which I hope you will review, and

of course welcome any questions about. Additionally, I would like to highlight a few additional concerns, which I have elaborated upon briefly below

As I mentioned earlier, the Grow Montana Food Policy Coalition works to support Montana's food and agricultural economy through common-sense solutions. One of the most common-sense things we can do to support local food in Montana right now is fix the tangled web of food regulations that local producers must navigate in order to bring their products to market. Doing so would keep more money in our communities and increase the availability of healthy, local food for all Montanans. We are pleased to be a part of the HB 630 process, and look forward to continuing our involvement in the future.

I thank you for your time today, and your work on this important issue.

Sincerely,



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Interagency collaboration and input should continue

The inter-agency meetings, as well as meetings with a broad-based stakeholder advisory committee that have been mandated under this process have been helpful, and we hope they continue following the formal conclusion of the HB 630 process. To ensure that the progress made during the HB 630 process continues, we urge the agencies involved in food regulation to continue actively seeking, facilitating, and acting upon public input on a regular basis in the future.

We also encourage the agencies, DPHHS in particular, to develop a clear, well-publicized process for producers to register have complaints or confusion about county-level enforcement, should they arise in the future. Many food entrepreneurs that we work with have expressed frustration that they have had a question or complaint, but did not know where to direct it within the state government. Something like an easily-searchable website form and phone number where producers could contact state officials, and a clear process for responding to those issues could help resolve some of this confusion.

Regulations and practice should encourage consistency across counties:

We encourage the departments to seek additional ways to communicate with the public, through outreach and education as well as by finding additional ways to take input and address grievances. Many producers and food businesses that we have worked with have expressed frustration and confusion at the patchwork of food regulations and licenses that they must comply with. Inconsistency of regulations and enforcement across county lines is a particular problem. We hope that future rules include a streamlined system, with due process, so that producers are treated equally across counties.

Future laws, including a future cottage food regulation, should take the need for consistency across counties into account. If producers are required to register, we encourage a statewide registration process directly with the state agency (presumably DPHHS). If this is not possible, then it is important that, at least, cottage food (and other) licenses granted in one county be recognized in other counties as well. Requiring separate registration in each county would be extremely redundant and burdensome to producers, and would be counter to the purpose of the HB 630 process, which is to streamline and improve regulations.

Share resources and best practices around the state:

We hope for more streamlined and collaborative guidance for producers from state and county agencies. There are a number of resources in the state to help food entrepreneurs learn about and comply with food safety laws, but no centralized location to find and share this information. For instance, Missoula County is producing guidance documents for producers in their area, which could benefit other counties as well. Other agencies and non-profits, such as Extension and the Food and Agricultural Development Centers, have resources as well. Montana should develop a process for collecting, promoting, and sharing these resources among counties and with food businesses.

Producers should be able to find this information *before* they start their business or go to seek a license, so that they can appropriately plan for success. We encourage the state agencies to look to states like Arizona, which have excellent, centralized outreach materials, as a guide for creating a better system to help Montana producers. Furthermore, we encourage you to find where gaps in resources exist, and to develop guidance materials where necessary. One thing that many who we work with have said would be useful is a centralized document to website where all of the food business regulations and licensing requirements would be located.

Due Process

Our experience is that Montana's producers want to follow the regulations and to produce safe food. But in order to do so, and in order to create a fair playing field for producers across the state, there must be standard guidance on regulations, and a clear process of due process that is applied across the counties, should producers be denied a permit or otherwise penalized. If a Montanan food entrepreneur does something wrong, they should be given clear, written information on what regulation they violated, how they can address the problem, and how they can appeal. In order to maintain consistency and fairness to producers across the state, we encourage exploring a process where appeals can be directed to the state regulatory agencies, rather than county agencies.

Streamline and clarify licensing requirements:

The agencies should also streamline the licensing process for wholesale producer/processors and retail. Currently, there is a great deal of confusion around multiple (and sometimes redundant) license requirements that local producers are required to obtain. Many wholesale producers do not know they need a retail license until they are denied an opportunity to sell their product by their local official. We encourage you to consider removing the retail license requirement for wholesale producers entirely: the requirements of a wholesale license may be stringent enough that, for small local sales at places like farmers markets and producer-owned stores, a retail license is truly redundant, and an unnecessary burden to producers. If this is not possible, then at least the registration process should be streamlined: more guidance should be provided, and DPHHS should consider using just one application form for both a retail and a manufacturing license, on which producers could select which license(s) they were applying for.

Model Food Code

In general, we support the adoption of the 2013 FDA model food code (and encourage the adoption of the 2013 rules, rather than an older version). To ensure consistency, encourage the adoption of the complete rule as much as possible, rather than select pieces, and hope that regulators will look into legislation to change necessary parts of current statute if necessary. However, it is important that the new code does not create undue burden for producers.

One area in particular that other states have had problems with is the regulation requiring refrigeration for cut leafy greens. If this regulation is adopted, it is important to clarify that cut leafy greens do not include whole head lettuce or other greens, otherwise many Montana producers will be negatively impacted. Studies have found that the critical contamination point for cut greens is in cutting and processing (beyond the whole head/leaf stage), so this clarification should not result in increased public risk.

1000 bird poultry exemption

The Department of Livestock should adopt rules allowing small-scale, open-air poultry slaughter under the federal 1000-bird exemption. Montana's producers want to engage in small-scale poultry production, and there is a large demand in the market for local protein among consumers. What is standing in the way is a lack of processing. The Montana legislature has adopted the 1000-bird exemption, and it is time for the Department of Livestock to write rules for this exemption.

We encourage a public rulemaking process, and we encourage a final rule that allows for sanitary slaughter in mobile and open-air facilities. There are states, like Massachusetts, where regulations allowing open-air facilities have been successfully and safely allowing small-scale poultry operations to process on their farms. Most of Montana's chicken producers want to do far less than 1000 birds a year, and building an enclosed facility would be unfeasible for their business. Furthermore, an enclosed building is not

inherently cleaner, and with proper rules and guidance open-air, mobile, or tented facilities can be just as safe or safer (again, we encourage looking to model states that have successful open-air rules).